

DEPARTMENT OF CHILDREN AND FAMILIES
DIVISION OF FAMILY AND ECONOMIC SECURITY
ADMINISTRATOR'S MEMO SERIES

☐ ACTION
☒ NOTICE **10-05**

ISSUE DATE: 06/03/2010
DISPOSAL DATE: None

*PROGRAM CATEGORIES:

<input type="checkbox"/> AS	<input type="checkbox"/> FM	<input type="checkbox"/> ML	<input type="checkbox"/> TR
<input type="checkbox"/> CC	<input type="checkbox"/> FL	<input type="checkbox"/> NA	<input checked="" type="checkbox"/> W-2
<input type="checkbox"/> CS	<input type="checkbox"/> IT	<input type="checkbox"/> RA	<input type="checkbox"/> WIA
<input type="checkbox"/> CF	<input type="checkbox"/> JC	<input type="checkbox"/> TC	
<input type="checkbox"/> CR	<input type="checkbox"/> LM	<input type="checkbox"/> TA	

To: W-2 Contract Agencies

From: Julie Kerksick
Division Administrator

RE: Voluntary Compliance Agreement between the Department of Children and Families and the US Department of Health and Human Services, Office for Civil Rights

PURPOSE

The purpose of this memo is to notify Wisconsin Works (W-2) Agencies about the terms of a Voluntary Compliance Agreement (VCA) that was recently finalized between the United States Department of Health and Human Services, Office for Civil Rights (OCR) and the Wisconsin Department of Children and Families (DCF).

DCF is committed to ensuring that the W-2 program helps parents get, keep and advance in family supporting jobs. We are focused on ensuring that this program helps people with varying skills and challenges improve their financial stability through work and work-related activities. While we have already taken many steps to improve how W-2 accommodates individuals' needs and helps them meet their employment goals, we consider this agreement another step forward in our continuous efforts to help working families.

BACKGROUND:

In 2002, Legal Action of Wisconsin (LAW), the American Civil Liberties Union (ACLU) and the National Association for the Advancement of Colored People (NAACP) filed six race and disability complaints against the W-2 program. The complaints alleged that the W-2 program:

- Designates applicants as "job ready" without screening or assessing them to determine if any disability affects their ability to work;
- Has not developed and utilized effective screening tools;
- Has not sufficiently trained Resource Specialists and Financial & Employment Planners (FEPs) to identify disabilities;
- Has not afforded applicants and participants the opportunity for a timely comprehensive assessment when the intake interview indicates the presence of a disability;
- Has not developed guidelines as to what a comprehensive assessment should include;

- Has not provided reasonable accommodations to participants (and their family members) with disabilities;
- Has not developed specialized education and training programs for participants with mental impairments and learning disabilities;
- Has not adequately trained FEPs to work with applicants and participants with disabilities;
- Does not regularly assess a participant's progress in activities to determine if a participant (or family member) has a disability that requires reasonable accommodations;
- Does not adequately train and oversee W-2 agencies with respect to compliance with Section 504 and the Americans with Disabilities Act (ADA), and otherwise fails to take corrective action with respect to W-2 Agency compliance violations;
- Does not provide written materials that contain adequate information regarding an applicant's or participant's rights under Section 504 and the ADA, including, but not limited to, the right to file a complaint;
- Does not have in place sufficient intake, screening and assessment procedures to properly identify and evaluate the needs of W-2 applicants and participants with disabilities, all in violation of Section 504 and the ADA;
- Fails to ensure that the W-2 program is accessible to and accommodates persons with disabilities and persons who have household members with disabilities, in violation of Section 504 and the ADA;
- Discriminates per se against persons with disabilities in certain aspects of its W-2 program; and
- Extends time limits in its W-2 program in a racially discriminatory manner for W-2 participants in violation of Title VI of the Civil Rights Act of 1964.

The Department of Workforce Development met and negotiated with OCR a number of times between 2002 and 2008 but did not come to a resolution. The month following the creation of DCF, on August 28, 2008, DCF received a draft VCA from OCR. This is a step in OCR's process for resolving a complaint through corrective action. DCF reviewed the full agreement and then worked with OCR to make needed modifications to remove provisions that would negatively impact W-2 participants. Some provisions found in the VCA are already required as part of W-2 policy, other provisions had already been adopted by DCF in an effort to make the W-2 program more effective for families. The VCA was finalized and became effective on April 8, 2010.

W-2 CHANGES

There are four areas in which changes have been agreed to: 1) Policy; 2) Monitoring; 3) Training; and 4) Reporting. The effective date of the provisions were negotiated with OCR to ensure there is a reasonable amount of time to plan, communicate with agencies and effectively implement each of the new requirements.

This memo fulfills a provision in the VCA, that, within 60 days of the effective date of the agreement, DCF will provide notification in memorandum form to all W-2 agencies that identifies the terms of the VCA. Below are some highlights of the provisions contained in the VCA. The final VCA is attached to this memo.

- 1) Policy: The policy changes agreed to by OCR and DCF, for the most part, fall into one of three areas:
 - a. Updates to W-2 screening and assessment policy. Examples include:

- The Barrier Screening Tool (BST) must be initially offered to all W-2 applicants during the time of application, and prior to placement on one of the rungs of the Employment Ladder.
 - When a W-2 agency obtains a formal assessment for a participant, the EP must be revised within 30 days of receiving the formal assessment.
 - A new formal assessment consent form will be required whenever a participant is referred for a formal assessment. The consent form will inform an applicant or participant of his or her right to receive reasonable modifications or accommodations for attendance at the formal assessment.
- b. New notification requirements. Examples include:
- Post notices in an open and apparent location in the waiting area of all W-2 Agencies, advertising the availability of the BST to all W-2 program applicants and participants.
 - Send written notice to all current W-2 participants of the opportunity to have the BST administered.
 - The notices regarding changes in W-2 status and/or benefits shall include, but not be limited to, a statement indicating that a participant may request a BST or a formal assessment.
- c. Changes that improve the accessibility of the program to W-2 participants. Examples include:
- Prior to assigning applicants or participants to a W-2 education, training or a work site, W-2 Agencies will advise the W-2 education, training or work site of any needed reasonable modifications or accommodations.
 - Require that case files be documented regarding the need for reasonable modifications or accommodations.
 - Require that reasonable modifications or accommodations be provided based on an applicant or participant's individual need.
 - Require that agencies document the basis for granting or denying "good cause" determinations and time frames.
- 2) Monitoring: DCF will monitor compliance with the new policies and procedures developed pursuant to the agreement, overall compliance with the agreement and compliance with Section 504 and the ADA.
- 3) Training and Technical Assistance: DCF will provide the following training and technical assistance:
- a. Training on new policies and procedures developed under the terms of the agreement.
 - b. Training on best practices developed by W-2 agencies as a result of the terms of the agreement.
 - c. Conducting annual evaluations that bring FEPs, supervisory staff and/or contractors together with the goal of increasing uniformity in the decision-making of all W-2 agencies.
 - d. Technical assistance regarding compliance with Section 504, ADA and Title VI.

If you have any questions concerning Civil Rights compliance or need technical assistance to ensure compliance in service delivery, you may contact Earnestine Moss, DCF Equal Opportunity Officer, (608) 266-5335 (Voice) or at (866) 864-4585 (TTY Toll Free).

4) Reporting: DCF will evaluate the program and report data in the following areas:

- a. Program evaluation related to the policies and procedures developed under the terms of the agreement.
- b. Participant data related to assessments, disabilities, and civil rights complaints.
- c. Reporting on compliance with the agreement.

NEXT STEPS

DCF staff have begun planning for the changes required under the VCA and in some cases changes are already underway. The W-2 Policy and Program Operations Workgroup will be called upon to review and provide feedback on changes to W-2 policy prior to implementation.

CONTACT: Regional Operations

ATTACHMENT: [Voluntary Compliance Agreement](#)